



HON. SYLVIA O. HINDS-RADIX
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LAW DEPARTMENT
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July 18, 2023

VIA ECF

The Honorable Lorna G. Schofield
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *D.E.-A, et. al. v. N.Y.C. Dep't of Educ., et al.*, 22-cv-10364 (LGS)(OTW)

Dear Judge Schofield:

I am a Special Assistant Corporation Counsel in the Office of Corporation Counsel, the Hon. Sylvia O. Hinds-Radix, attorney for Defendants in the above-referenced action, wherein Plaintiff seeks enforcement of administrative orders under, *inter alia*, the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq.* (“IDEA”), and attorneys’ fees, costs, and expenses for legal work on administrative hearings, as well as for this action.

I write jointly with Plaintiffs’ counsel to provide a status update to the Court nunc pro tunc, pursuant to the Order issued July 17, 2023 (ECF 32) and to request a further extension of the discovery stay and the discovery deadline due to extenuating circumstances. The parties apologize for the late report and the inconvenience it has caused the Court.

Prior assigned counsel for Defendants, Mr. David Thayer, left on an emergency extended medical leave on June 13, 2023, the day after Your Honor granted the joint application for an extension and stay of discovery. In the interim, I was assigned to handle the case. I have conferred with Plaintiffs’ counsel and the parties will of course continue negotiations and expect to reach a settlement in principle with respect to the substantive claims within the next month. Specifically, Defendants are reviewing Plaintiffs’ request to further extend the Student’s access to services beyond the time agreed to in the interim stipulation (ECF 29), and their request for transportation services as expeditiously as possible.

In order to give the parties sufficient time to also address the fees claim, we request that the deadline for fact discovery be extended an additional 45 days, from September 28, 2023 to November 1, 2023. The parties anticipate that at that time, they will have begun to negotiate the fees claim and will be close to resolving this action in its entirety. Given the unexpected emergency leave of Defendants’ prior counsel the day the parties’ proposed the stay for settlement purposes, the parties submit that the circumstances are sufficiently extenuating as to justify an extension of the stay and the schedule.

Thank you for considering this submission.

Respectfully submitted,


/s/ W. Simone Nicholson

W. Simone Nicholson
Special Assistant Corporation Counsel

cc: Erin O'Connor, Of Counsel, Attorneys for Plaintiff (via ECF)
Elisa Hyman, Attorneys for Plaintiff (via ECF)

Application **DENIED**. An Order issued June 13, 2023, stated no further extensions of fact discovery would be granted absent a showing of extraordinary circumstances. While the Court is sympathetic to the circumstances described in the endorsed letter, the endorsed letter does not provide cause to extend the deadline to complete fact discovery. More than two months remain to complete fact discovery or, as the parties contemplate, reach a settlement on the merits of the substantive claim. The parties shall file a status letter regarding the progress of fact discovery and/or their efforts to resolve this matter through settlement by **August 14, 2023**, and every 30 days thereafter. So Ordered.

Dated: July 19, 2023
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE